

## **2005 DRAFTING REQUEST**

### **Assembly Substitute Amendment (ASA-AB573)**

Received: **10/06/2005**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Leah Vukmir (608) 266-9180**

By/Representing: **dean**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Property - exemption**

Extra Copies: **Mary Mathias-LC**

Submit via email: **YES**

Requester's email: **Rep.Vukmir@legis.state.wi.us**

Carbon copy (CC:) to: **mary.matthias@legis.state.wi.us**

---

#### **Pre Topic:**

No specific pre topic given

---

#### **Topic:**

Property tax exemption for certain property; housing for older persons

---

#### **Instructions:**

See Attached

---

#### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 10/06/2005	lkunkel 10/13/2005		_____			
/1	jkreye 01/11/2006	lkunkel 01/18/2006	rschluet 10/14/2005	_____	lnorthro 10/14/2005	lnorthro 10/14/2005	
/2	jkreye 02/06/2006	lkunkel 02/06/2006	jfrantze 01/18/2006	_____	lnorthro 01/18/2006	lnorthro 01/18/2006	
/3			chaugen	_____	lemery	lemery	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			02/06/2006 _____		02/06/2006	02/06/2006	

FE Sent For:

&lt;END&gt;

## 2005 DRAFTING REQUEST

### Assembly Substitute Amendment (ASA-AB573)

Received: 10/06/2005

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Leah Vukmir (608) 266-9180

By/Representing: dean

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Property - exemption

Extra Copies: Mary Mathias-LC

Submit via email: YES

Requester's email: Rep.Vukmir@legis.state.wi.us

Carbon copy (CC:) to: mary.matthias@legis.state.wi.us

---

#### Pre Topic:

No specific pre topic given

---

#### Topic:

Property tax exemption for certain property; housing for older persons

---

#### Instructions:

See Attached

---

#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 10/06/2005	lkunkel 10/13/2005		_____			
/1	jkreye 01/11/2006	lkunkel 01/18/2006	rschluet 10/14/2005	_____	lnorthro 10/14/2005	lnorthro 10/14/2005	
/2			jfrantze 01/18/2006	_____	lnorthro 01/18/2006	lnorthro 01/18/2006	

1/3/mk 2/6 ch 2/6 pc 2/6

FE Sent For:

**<END>**

## 2005 DRAFTING REQUEST

### Assembly Substitute Amendment (ASA-AB573)

Received: 10/06/2005

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Leah Vukmir (608) 266-9180

By/Representing: dean

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Property - exemption

Extra Copies: Mary Mathias-LC

Submit via email: YES

Requester's email: Rep.Vukmir@legis.state.wi.us

Carbon copy (CC:) to:

---

#### Pre Topic:

No specific pre topic given

---

#### Topic:

Property tax exemption for certain property; housing for older persons

---

#### Instructions:

See Attached

---

#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 10/06/2005	lkunkel 10/13/2005		_____			
/1			rschluet 10/14/2005	_____	lnorthro 10/14/2005	lnorthro 10/14/2005	

FE Sent For:

1/2/mk 1/18  
J 1/18  
1/18  
<END>

## 2005 DRAFTING REQUEST

### Assembly Substitute Amendment (ASA-AB573)

Received: 10/06/2005

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Leah Vukmir (608) 266-9180

By/Representing: dean

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Property - exemption

Extra Copies: Mary Mathias-LC

Submit via email: YES

Requester's email: Rep.Vukmir@legis.state.wi.us

Carbon copy (CC:) to:

---

#### Pre Topic:

No specific pre topic given

---

#### Topic:

Property tax exemption for certain property; housing for older persons✓

---

#### Instructions:

See Attached

---

#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?	jkreye	1/mk10/13	99				
----	--------	-----------	----	--	--	--	--

FE Sent For:

<END>

## Kreye, Joseph

---

**From:** Cady, Dean  
**Sent:** Wednesday, October 05, 2005 5:16 PM  
**To:** Kreye, Joseph  
**Subject:** Drafting request

**Attachments:** 02261-PTaxdraft.pdf

Hey Joe, pursuant to our conversation regarding Assembly Bill 573, attached is a PDF that Mary Mathias at Leg Council prepared. Representative Vukmir would like to have a Substitute Amendment to AB 573 drafted, using what Mary prepared. The Assembly Committee on Urban and Local Affairs is scheduled to have a hearing on Tuesday, October 18th. At this point I am not sure what the time line is for an executive session, but Representative Vukmir would like to have something ready.

Thankx a mil for the help Joe, much appreciated.

Cheers,  
Deano



02261-PTaxdraft.p  
df (31 KB)

2005 ASSEMBLY BILL 573

July 21, 2005 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Urban and Local Affairs.

- 1 AN ACT *to renumber and amend* 70.11 (4); *to amend* 70.11 (intro.); and *to*  
2 *create* 70.11 (4) (c) and 70.11 (4) (d) of the statutes; **relating to:** revision and  
3 elimination of the exemption from the property tax for certain property and the  
4 use of income from certain tax-exempt leased property.

***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

~~JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Tax Exemptions for Residential Property (Columbus Park).~~

~~Revision and Reorganization of s. 70.11 (intro.) and (4), stats.~~

~~Under current law, property owned and used exclusively by certain entities specified under s. 70.11 (4), stats., is exempt from the property tax while such property~~



**ASSEMBLY BILL 573**

is used not for profit. This bill reorganizes s. 70.11 (4) to make it more readable and to place the types of property that are exempt under that section into separate statutory subdivisions.

The bill also eliminates the property tax exemption for certain residential property owned by a benevolent association. Specifically, the bill revises the property tax exemption under current s. 70.11 (4) for “property owned by benevolent associations, including benevolent nursing homes and retirement homes for the aged” by setting forth the specific types of property owned by a benevolent association that are exempt from property taxes.

The types of property owned by a benevolent association that are exempt from the property tax under the bill are:

- a. Nursing homes licensed under s. 50.03.
- b. Community based residential facilities licensed under s. 50.03.
- c. Adult family homes certified under s. 50.032 or licensed under s. 50.033.
- d. Residential care apartment complexes registered or certified under s. 50.034.
- e. Domestic abuse shelters.
- f. Shelters for the homeless, including transitional housing facilities.
- g. Housing for low-income persons that is operated in compliance with sections 3.01 and 3.02 (1), (2) and (3) of Internal Revenue Service (IRS) revenue procedure 96–32 or that is described in section 4.02 (4) or 4.02 (9) of that revenue procedure.

Sections 3.01 and 3.02 (1), (2) and (3) of IRS revenue procedure 96–32 set forth income eligibility limits for federal low-income housing programs. Generally, those limits are as follows:

- (a) At least 75 percent of the units are occupied by residents that qualify as low-income (generally, an income at or below 80 percent of an area’s median income); and
- (b) Either at least 20 percent of the units are occupied by residents that also meet the very low-income limit for the area (generally, an income at or below 50 percent of an area’s median income) or 40 percent of the units are occupied by residents that also do not exceed 120 percent of the area’s very low-income limit. Up to 25 percent of the units may be provided at market rates to persons who have incomes in excess of the low-income limit.

Income limits are computed and published by the Department of Housing and Urban Development (HUD). There are provisions that permit an individual tenant’s income to rise above the limits under certain circumstances.

Section 4.02 (4) refers to government housing programs designed to provide affordable housing. Section 4.02 (9) refers to programs designed to provide home ownership opportunities for families that cannot otherwise afford to purchase safe and decent housing.

h. A residential facility that provides alcohol or other drug abuse (AODA) treatment services or housing for persons with or recovering from AODA problems.

i. Residential housing for persons with permanent disabilities.

j. Property that is not residential housing.

Under the bill, property owned by a benevolent association that is residential housing is subject to the property tax if it does not fit within any of the categories described under a. through i., above.

Nonresidential property owned and used exclusively by a benevolent association remains exempt from the property tax.

Under the bill, nonresidential property owned by a church or religious association is exempt from the property tax. Residential property owned by a church or religious association is exempt if it is described in any of the categories listed under a. through i., above, or if it is used for housing for pastors or their ordained assistants, members of religious orders or communities, or ordained teachers.

These provisions first apply to property tax assessments as of January 1, 2007, which are payable in 2008.

Use of Leasehold Income

**ASSEMBLY BILL 573**

Under current law, if property that is exempt from taxation under s. 70.11 is leased, the property retains its tax exemption only if the owner uses all of the leasehold income for maintenance of the leased property or construction debt retirement of the leased property or both. [s. 70.11 (intro.), stats.] This is commonly referred to as the "rent use" requirement".

The bill provides that leasing property described in s. 70.11 (4), stats., as residential housing does not render the property taxable if the property owner uses all of the lease income to further its benevolent or educational activities, or in the case of a church or religious association, to further the activities of the church or association. In addition, the bill provides that a property owner may not discriminate based on race.

This provision applies retroactively to property tax assessments as of January 1, 2003, which were payable in 2004.

1           **SECTION 1.** 70.11 (intro.) of the statutes is amended to read:

2           **70.11 Property exempted from taxation.** (intro.) The property described  
3 in this section is exempted from general property taxes if the property is exempt  
4 under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and  
5 its use, occupancy or ownership did not change in a way that makes it taxable; if the  
6 property was taxable for the previous year, the use, occupancy or ownership of the  
7 property changed in a way that makes it exempt and its owner, on or before March 1,  
8 files with the assessor of the taxation district where the property is located a form  
9 that the department of revenue prescribes or if the property did not exist in the  
10 previous year and its owner, on or before March 1, files with the assessor of the  
11 taxation district where the property is located a form that the department of revenue  
12 prescribes. Leasing a part of the property described in this section does not render  
13 it taxable if, except for property described in sub. (4), the lessor uses all of the  
14 leasehold income for maintenance of the leased property or construction debt  
15 retirement of the leased property, or both, and, except for residential housing, if the  
16 lessee would be exempt from taxation under this chapter if it owned the property.  
17 Leasing property described in sub. (4) as residential housing does not render it  
18 taxable if the property owner uses all of the leasehold income to further the  
19 benevolent or educational activities of the owner, or, in the case of a church or

**ASSEMBLY BILL 573**

INSERT  
4-1

1 religious association, to further the activities of the church or association. Any lessor  
2 who claims that leased property is exempt from taxation under this chapter shall,  
3 upon request by the tax assessor, provide records relating to the lessor's use of the  
4 income from the leased property. Property exempted from general property taxes is:

5 **SECTION 2.** 70.11 (4) of the statutes is renumbered 70.11 (4) (intro.) and  
6 amended to read:

7 70.11 (4) (intro.) Property owned and used exclusively by educational any of the  
8 entities described in this subsection while such property is used not for profit.  
9 Property that is exempt from taxation under this subsection and is leased remains  
10 exempt from taxation only if, in addition to the requirements specified in the  
11 introductory phrase of this section, the property owner and the lessee do not  
12 discriminate on the basis of race. The amount of land exempt under this subsection  
13 may not exceed 10 acres of land necessary for location and convenience of buildings,  
14 except as provided in par. (b). This subsection does not include property owned by  
15 an organization that is organized under s. 185.981 or ch. 611, 613, or 614 and that  
16 offers a health maintenance organization as defined in s. 609.01 (2) or a limited  
17 service health organization as defined in s. 609.01 (3) or by an organization that is  
18 issued a certificate of authority under ch. 618 and that offers a health maintenance  
19 organization or a limited service health organization or by any nonstock, nonprofit  
20 corporation which services guaranteed student loans for others or on its own account.  
21 The property of the following entities is exempt from taxation under this subsection.

22 (a) Educational institutions offering regular courses 6 months in the year; or  
23 by churches and educational associations.

24 (b) Churches or religious, educational or benevolent associations, including  
25 benevolent nursing homes and retirement homes for the aged but not including an

**ASSEMBLY BILL 573****SECTION 2**

1 organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers  
2 a health maintenance organization as defined in s. 609.01 (2) or a limited service  
3 health organization as defined in s. 609.01 (3) or an organization that is issued a  
4 certificate of authority under ch. 618 and that offers a health maintenance  
5 organization or a limited service health organization and not including property  
6 owned by any nonstock, nonprofit corporation which services guaranteed student  
7 loans for others or on its own account, and also including property owned and used  
8 for housing for pastors and their ordained assistants, members of religious orders  
9 and communities, and ordained teachers, whether or not contiguous to and a part of  
10 other property owned and used by such associations or churches; or by women's, but  
11 not other types of residential housing except for the property described in par. (c).  
12 Property owned by churches or religious associations necessary for location and  
13 convenience of buildings, used for educational purposes and not for profit, shall not  
14 be subject to the 10-acre limitation under this subsection but shall be subject to a  
15 30-acre limitation.

16 (e) Women's clubs; or by domestic,

17 (f) Domestic incorporated historical societies; or by domestic,

18 (g) Domestic incorporated, free public library associations; or by fraternal,

19 (h) Fraternal societies operating under the lodge system (except university,  
20 college and high school fraternities and sororities), but not exceeding 10 acres of land  
21 necessary for location and convenience of buildings while such property is not used  
22 for profit. Property owned by churches or religious associations necessary for  
23 location and convenience of buildings, used for educational purposes and not for  
24 profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre  
25 limitation. Property that is exempt from taxation under this subsection and is leased

**ASSEMBLY BILL 573****SECTION 2**

1 remains exempt from taxation only if, in addition to the requirements specified in the  
2 introductory phrase of this section, the lessee does not discriminate on the basis of  
3 race, except university, college, and high school fraternities and sororities.

4 **SECTION 3.** 70.11 (4) (c) of the statutes is created to read:

5 70.11 (4) (c) Benevolent associations, churches, or religious associations, if the  
6 property is any of the following:

- 7 1. A nursing home licensed under s. 50.03.
- 8 2. A community-based residential facility licensed under s. 50.03.
- 9 3. An adult family home certified under s. 50.032 or licensed under s. 50.033.
- 10 4. A residential care apartment complex registered or certified under s. 50.034.
- 11 5. A domestic abuse shelter.
- 12 6. A shelter for the homeless, including transitional housing facilities.
- 13 7. Housing for low-income persons that is operated in compliance with sections  
14 3.01 and 3.02 (1), (2), and (3), or that is provided as part of a program described in  
15 section 4.02 (4) or 4.02 (9), of the Internal Revenue Service revenue procedure 96–32.  
16 In order to claim the exemption under this subdivision, the property owner shall  
17 provide the assessor an affidavit stating that the property meets the requirements  
18 under this subdivision. For the purposes of this subdivision, “project”, as used in  
19 Internal Revenue Service revenue procedure 96–32, includes property located on  
20 more than one tax parcel, if the parcels are owned or operated by the same person  
21 and are adjacent, separated only by a street or other public right-of-way, or within  
22 the same condominium development.
- 23 8. A residential facility, the primary purpose of which is to provide alcohol or  
24 other drug abuse treatment or services or housing for persons with, or who are  
25 recovering from, alcohol or other drug abuse problems.

**ASSEMBLY BILL 573****SECTION 3**

1           9. Residential housing that is occupied by one or more persons with permanent  
2 disabilities, for whom evidence is available that demonstrates that these persons  
3 meet the medical definition of permanent disability used to determine eligibility for  
4 programs administered by the federal social security administration.

5           **SECTION 4.** 70.11 (4) (d) of the statutes is created to read:

6           70.11 (4) (d) Benevolent associations, if the property is not residential.

7           **SECTION 5. Initial applicability.**

8           (1) The treatment of section 70.11 (intro.) of the statutes first applies to  
9 property tax assessments as of January 1, 2003.

10           (2) The renumbering and amendment of section 70.11 (4) of the statutes and  
11 the creation of section 70.11 (4) (c) and (d) of the statutes first apply to property tax  
12 assessments as of January 1, 2007.

13           **SECTION 6. Effective date.**

14           (1) The treatment of section 70.11 (intro.) of the statutes takes effect on  
15 January 1, 2003.

16           (2) The renumbering and amendment of section 70.11 (4) of the statutes and  
17 the creation of section 70.11 (4) (c) and (d) of the statutes take effect on January 1,  
18 2007.

19           (END)

d-note

INSERT  
7-4

## STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

50244/du  
JL

Vukmir:

Representative Vukmir:

review this draft carefully ensure  
Please review this draft carefully to ensure that  
consistent with your substitute  
it is consistent with your intent to the substitute  
amendment is based on a draft prepared by  
amendment is based on a draft prepared by  
Mary Mathias at  
Mary Mathias at the Legislative Council

JL



1 **AN ACT** *to amend* 70.11 (intro.) and 70.11 (4) of the statutes; **relating to:** revision and  
2 elimination of the exemption from the property tax for certain property and the use  
3 of income from certain tax-exempt leased property.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**Revision and Reorganization of s. 70.11 (intro.) and (4), stats.**

Under current law, property owned and used exclusively by certain entities specified under s. 70.11 (4), stats., is exempt from the property tax while such property is used not for profit. This draft reorganizes s. 70.11 (4) to make it more readable and to place the types of property that are exempt under that section into separate statutory subdivisions.

This draft also eliminates the property tax exemption for certain residential property owned by a benevolent association. Specifically, the draft revises the property tax exemption under current s. 70.11 (4) for "property owned by benevolent associations, including benevolent nursing homes and retirement homes for the aged" by setting forth the specific types of property owned by a benevolent association that are exempt from property taxes.

The types of property owned by a benevolent association that are exempt from the property tax under the draft are:

- a. Nursing homes licensed under s. 50.03.
- b. Community based residential facilities licensed under s. 50.03.
- c. Adult family homes certified under s. 50.032 or licensed under s. 50.033.
- d. Residential care apartment complexes registered or certified under s. 50.034.
- e. Domestic abuse shelters.
- f. Shelters for the homeless, including transitional housing facilities.
- g. Housing for low-income persons that is operated in compliance with sections 3.01 and 3.02 (1), (2) and (3) of Internal Revenue Service (IRS) revenue procedure 96-32 or that is described in section 4.02 (4) or 4.02



(9) of that revenue procedure. Sections 3.01 and 3.02 (1), (2) and (3) of IRS revenue procedure 96-32 set forth income eligibility limits for federal low-income housing programs. Section 4.02 (4) refers to government housing programs designed to provide affordable housing. Section 4.02 (9) refers to programs designed to provide home ownership opportunities for families that cannot otherwise afford to purchase safe and decent housing.

h. A residential facility that provides alcohol or other drug abuse (AODA) treatment services or housing for persons with or recovering from AODA problems.

i. Residential housing for persons with permanent disabilities.

j. Housing for older persons as defined in s. 106.50 (1m) (m) that satisfies the requirements under s. 106.50 (5m) (a) and which is affiliated with a nursing home licensed under s. 50.03, or a residential care apartment complex registered or certified under s. 50.034, any one of which is located in the same county. Housing for older persons will be considered affiliated if it meets the definition of an affiliate under s. 180.0103 and the affiliated entity is not-for-profit.

Housing for older persons is defined in s. 106.50 (1m) (m), stats., as any of the following:

1. Housing provided under any state or federal program that the secretary of the department of workforce development determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program.

2. Housing solely intended for, and solely occupied by, persons 62 years of age or older.

3. Housing primarily intended and primarily operated for occupancy by at least one person 55 years of age or older per dwelling unit. Section 106.50 (5m) (a), stats., provides that Wisconsin's open housing law does not prohibit discrimination based on age or family status with respect to housing for older persons. Housing primarily intended and primarily operated for occupancy by at least one person 55 years of age or older per dwelling unit may qualify as housing for older persons only if the owner of the housing maintains records containing written verification that all of the following factors apply to the housing:

1. At least 80% of the dwelling units in housing that is primarily intended and primarily operated for occupancy by at least one person 55 years of age or older per dwelling unit, are occupied by at least one person 55 years of age or older.

2. Policies are published and procedures are adhered to that demonstrate intent by the owner or manager to provide housing for persons 55 years of age or older. The owner or manager may document compliance with this requirement by maintaining records containing written verification of the ages of the occupants of the housing.

In addition, under s. 106.50 (5m) (a), stats., no person may discriminate by refusing to continue renting to a person living in housing for older persons that is housing primarily intended and primarily operated for occupancy by at least one person 55 years of age or older per dwelling unit who is subject to a hardship condition.

Finally, under s. 106.50 (5m) (a), stats., housing may qualify as housing for older persons with respect to persons first occupying the housing on or after September 1, 1992, regardless of whether a person who had not attained the age of 62 resided in the housing on that date or regardless of whether one or more dwelling units were unoccupied on that date, if the persons who first occupy the housing on or after that date have attained the age of 62.

"Affiliate" is defined under s. 180.0103 (1), stats., as "a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, another person. Section 180.0103 (11m), stats., defines "person" to include "an individual and an entity". Section 180.0103 (8), stats., defines "entity" to include a domestic corporation; a foreign corporation; a limited liability company; a nonstock corporation; a stock or nonstock cooperative association; a profit or nonprofit, unincorporated association; a business trust; an estate; a partnership; a trust; 2 or more persons having a joint or common economic interest; a state or an agency, commission, department, authority, bureau, or other instrumentality of a state; a governmental subdivision; the United States; and a foreign government.

k. Property that is not residential housing.

Under the draft, property owned by a benevolent association that is residential housing is subject to the property tax if it does not fit within any of the categories described under a. through j., above.

Nonresidential property owned and used exclusively by a benevolent association remains exempt from the property tax.

Under the draft, nonresidential property owned by a church or religious association is exempt from the property tax. Residential property owned by a church or religious association is exempt if it is described in any of the categories listed under a. through j., above, or if it is used for housing

for pastors or their ordained assistants, members of religious orders or communities, or ordained teachers.

These provisions first apply to property tax assessments as of January 1, 2007, which are payable in 2008.

#### **Use of Leasehold Income**

Under current law, if property that is exempt from taxation under s. 70.11 is leased, the property retains its tax exemption only if the owner uses all of the leasehold income for maintenance of the leased property or construction debt retirement of the leased property or both. [s. 70.11 (intro.), stats.] This is commonly referred to as the "rent use" requirement".

The draft provides that leasing property described in s. 70.11 (4), stats., as residential housing does not render the property taxable if the property owner uses all of the lease income to further its benevolent or educational activities, or in the case of a church or religious association, to further the activities of the church or association, provided the activities are conducted in the same county in which the property from which the lease income is derived is located, or a contiguous county. In addition, the draft provides that a property owner may not discriminate based on race.

This provision applies retroactively to property tax assessments as of January 1, 2003, which were payable in 2004.

1       **SECTION 1.** 70.11 (intro.) of the statutes is amended to read:

2       **70.11 Property exempted from taxation.** (intro.) The property described in this  
3 section is exempted from general property taxes if the property is exempt under sub. (1), (2),  
4 (18), (21), (27) or (30); if it was exempt for the previous year and its use, occupancy or  
5 ownership did not change in a way that makes it taxable; if the property was taxable for the  
6 previous year, the use, occupancy or ownership of the property changed in a way that makes  
7 it exempt and its owner, on or before March 1, files with the assessor of the taxation district  
8 where the property is located a form that the department of revenue prescribes or if the  
9 property did not exist in the previous year and its owner, on or before March 1, files with the  
10 assessor of the taxation district where the property is located a form that the department of

1 revenue prescribes. Leasing a part of the property described in this section does not render it  
2 taxable if, except for property described in sub. (4), the lessor uses all of the leasehold income  
3 for maintenance of the leased property or construction debt retirement of the leased property,  
4 or both, and, except for residential housing, if the lessee would be exempt from taxation under  
5 this chapter if it owned the property. Leasing property described in sub. (4) as residential  
6 housing does not render it taxable if the property owner uses all of the leasehold income to  
7 further the benevolent or educational activities of the owner, or, in the case of a church or  
8 religious association, to further the activities of the church or association, provided the  
9 activities are conducted in the same county in which the property from which the lease income  
10 is derived is located, or a contiguous county. Any lessor who claims that leased property is  
11 exempt from taxation under this chapter shall, upon request by the tax assessor, provide  
12 records relating to the lessor's use of the income from the leased property. Property exempted  
13 from general property taxes is:

14 **SECTION 2.** 70.11 (4) of the statutes is amended to read:

15 70.11 (4) EDUCATIONAL, RELIGIOUS AND BENEVOLENT INSTITUTIONS; WOMEN'S CLUBS;  
16 HISTORICAL SOCIETIES; FRATERNITIES; LIBRARIES. Property owned and used exclusively by  
17 educational any of the entities described in this subsection while such property is used not for  
18 profit. Property that is exempt from taxation under this subsection and is leased remains  
19 exempt from taxation only if, in addition to the requirements specified in the introductory  
20 phrase of this section, the property owner and the lessee do not discriminate on the basis of  
21 race. The amount of land exempt under this subsection may not exceed 10 acres of land  
22 necessary for location and convenience of buildings, except as provided in par. (b). This  
23 subsection does not include property owned by an organization that is organized under s.  
24 185.981 or ch. 611, 613, or 614 and that offers a health maintenance organization as defined

INSERT  
4-1

1 in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3) or by an  
2 organization that is issued a certificate of authority under ch. 618 and that offers a health  
3 maintenance organization or a limited service health organization or by any nonstock,  
4 nonprofit corporation which services guaranteed student loans for others or on its own  
5 account.

6 (a) Educational institutions offering regular courses 6 months in the year; ~~or by~~  
7 churches and educational associations.

8 (b) Churches or religious, educational or benevolent associations, including benevolent  
9 nursing homes and retirement homes for the aged but not including an organization that is  
10 organized under s. 185.981 or ch. 611, 613 or 614 and that offers a health maintenance  
11 organization as defined in s. 609.01 (2) or a limited service health organization as defined in  
12 s. 609.01 (3) or an organization that is issued a certificate of authority under ch. 618 and that  
13 offers a health maintenance organization or a limited service health organization and not  
14 including property owned by any nonstock, nonprofit corporation which services guaranteed  
15 student loans for others or on its own account, and also including property owned and used  
16 for housing for pastors and their ordained assistants, members of religious orders and  
17 communities, and ordained teachers, whether or not contiguous to and a part of other property  
18 owned and used by such associations or churches; ~~or by women's, but not other types of~~  
19 residential housing except for the property described in par. (c). Property owned by churches  
20 or religious associations necessary for location and convenience of buildings, used for  
21 educational purposes and not for profit, shall not be subject to the 10-acre limitation but shall  
22 be subject to a 30-acre limitation.

23 (c) Benevolent associations, churches or religious associations if the property is any of  
24 the following:

- 1 1. A nursing home licensed under s. 50.03.
- 2 2. A community based residential facility licensed under s. 50.03.
- 3 3. An adult family home certified under s. 50.032 or licensed under s. 50.033.
- 4 4. A residential care apartment complex registered or certified under s. 50.034.
- 5 5. A domestic abuse shelter.
- 6 6. A shelter for the homeless, including transitional housing facilities.
- 7 7. Housing for low-income persons that is operated in compliance with sections 3.01  
8 and 3.02 (1), (2) and (3) or that is provided as part of a program described in section 4.02 (4)  
9 or 4.02 (9) of Internal Revenue Service revenue procedure 96-32. The property owner shall  
10 provide the assessor an affidavit stating that the property meets this requirement. For the  
11 purposes of this subdivision, "project", when used in Internal Revenue Service revenue  
12 procedure 96-32, includes property located on more than one tax parcel, if the parcels are  
13 owned or operated by the same person and are adjacent, separated only by a street or other  
14 public right-of-way, or within the same condominium development.
- 15 8. A residential facility, the primary purpose of which is to provide alcohol or other drug  
16 abuse treatment or services or housing for persons with, or who are recovering from, alcohol  
17 or other drug abuse problems.
- 18 9. Residential housing that is occupied by one or more persons with permanent  
19 disabilities, for whom evidence is available that demonstrates that these persons meet the  
20 medical definition of permanent disability used to determine eligibility for programs  
21 administered by the federal social security administration.
- 22 10. Housing for older persons as defined in s. 106.50 (1m) (m) that satisfies the  
23 requirements under s. 106.50 (5m) (a) and which is affiliated with a nursing home licensed  
24 under s. 50.03, a community-based residential facility licensed under s. 50.03, or a residential

(IN 92M)  
7-4

PLAIN

not underlined

or nursing home

PLAIN

care apartment complex registered or certified under s. 50.034, any one of which is located within the same county. Housing for older persons will be considered affiliated if it meets the definition of an affiliate under s. 180.0103<sup>(1)</sup> and the affiliated entity is not for profit.

(cm) Benevolent associations if the property is nonresidential.

(d) Women's clubs; or by domestic,

(e) Domestic incorporated historical societies; or by domestic,

(f) Domestic incorporated, free public library associations; or by fraternal

(g) Fraternal societies operating under the lodge system (except university, college and high school fraternities and sororities), but not exceeding 10 acres of land necessary for location and convenience of buildings while such property is not used for profit. Property owned by churches or religious associations necessary for location and convenience of buildings, used for educational purposes and not for profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre limitation. Property that is exempt from taxation under this subsection and is leased remains exempt from taxation only if, in addition to the requirements specified in the introductory phrase of this section, the lessee does not discriminate on the basis of race.

### SECTION 3. Initial applicability.

(1) The treatment of section 70.11 (intro.) of the statutes first applies to property tax assessments as of January 1, 2003.

(2) The treatment of section 70.11 (4) of the statutes first applies to property tax assessments as of January 1, 2007.

### SECTION 4. Effective date.

(1) The treatment of section 70.11 (intro.) of the statutes takes effect on January 1, 2003.

06/22/2005

— 9 —

WLC: 0226/1

(2) The treatment of sections 70.11 (4) and 70.116 of the statutes takes effect on January 1, 2007.

3 (END)



Insert A

(1)

¶ This substitute amendment differs from the bill = respects. First, addition bill in two respects. First, in addition to the association.

types of property owned by a benevolent association are exempt from taxes

that are exempt from property taxes under the substitute

Bill; the substitute amendment provides that housing for older persons is exempt from property taxes; for older persons is exempt from property taxes, if the housing is owned by a benevolent association. if the housing is owned by a benevolent association.

NOT

Under current law, generally, housing for older persons is housing provided under any state or federal in housing provided under any state or federal

specifically designed operated program that is specifically designed and operated to assist elderly persons; housing that is solely intended for, to assist elderly persons; housing that is solely intended for, and solely occupied by persons who are 62 years of age and solely occupied by, persons who are 62 years of age

primarily intended or older; and; housing that is primarily intended and primarily operated for occupancy primarily operated for occupancy by at least

one person who is 55 years of age or older per dwelling unit.

Insert A cont'

(2)

If second,<sup>1</sup> under the <sup>stat</sup> Bill,<sup>1</sup> leasing certain tax  
 as residential housing does not  
 exempt property or residential housing does not  
 cause the property to become subject to property  
 taxes; if the property owner uses all of the lease  
 income to further the benevolent or educational  
 activities the property for property owned by  
 activities of the property owner or; for property owned by  
 religious association; a church or religious association, to further the  
 activities association  
 activities of the church or religious association. Under  
 the substitute amendment; <sup>tax exempt</sup> property owned by a  
 church or religious association <sup>association</sup> and leased as  
 residential housing does not become taxable  
 residential housing does not become taxable  
 property if the church or religious association uses  
 property if the church or religious association uses  
 all further  
 all of the lease income to further the  
 activities church or religious  
 the activities of the church or religious  
 association in the county where the property  
 association in the county where the property

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

located or in a county that is contiguous  
is located or in a county that is contiguous  
to the county where the  
to the county where the property is located

end of insert A



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0244/1dn

JK:lmk:rs

October 13, 2005

Representative Vukmir:

Please review this draft carefully to ensure that it is consistent with your intent. The substitute amendment is based on a draft prepared by Mary Mathias at the Legislative Council.

Joseph T. Kreye  
Legislative Attorney  
Phone: (608) 266-2263  
E-mail: joseph.kreye@legis.state.wi.us

## Kreye, Joseph

---

**From:** Cady, Dean  
**Sent:** Wednesday, January 11, 2006 4:29 PM  
**To:** Kreye, Joseph  
**Subject:** Modifications to s0244/1 - substitute amendment to AB 573

Hey Joe. As I mentioned in my phone messgae earlier today, Rep. Vukmir is wondering if some modifications can be made to the substitute amendment to AB 573 that you drafted back in October.

The first modification Representative Vukmir would like made specifically concerns "benevolent associations" in Section 3 of the draft. She would like to have a definition inserted that would reflect federal law regarding not-for-profit organizations: "A benevolent association means: an organization that is described in section 501( c ) of the internal revenue code and that is exempt from taxation under section 501 ( a ) of the internal revenue code.

Joe, with respect to the definition of "benevolent association," I think it would fit in Section 3 of LRB s0244.

The second change is on page 5 line 8: after the word "any" and insert, "of or a combination." So the language would read: "property is any of or a combination of the following."

Finally, on page 6 line 12, delete the period after "county" and insert, "or a contiguous county."

Thankx a mil Joe, much appreciated.  
Cheers,  
deano

ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2005 ASSEMBLY BILL 573

- in 1-11-06
- SOON
- ReGen ✓
- 1 AN ACT *to renumber and amend* 70.11 (4); *to amend* 70.11 (intro.); and *to*  
2 *create* 70.11 (4) (c) and 70.11 (4) (d) of the statutes; **relating to:** revision and  
3 elimination of the exemption from the property tax for certain property and the  
4 use of income from certain tax-exempt leased property.

---

***Analysis by the Legislative Reference Bureau***

This substitute amendment differs from the bill in two respects. First, in addition to the types of property owned by a benevolent association that are exempt from property taxes under the bill, the substitute amendment provides that housing for older persons is exempt from property taxes, if the housing is owned by a benevolent association. Under current law, generally, housing for older persons is housing provided under any state or federal program that is specifically designed and operated to assist elderly persons; housing that is solely intended for, and solely occupied by, persons who are 62 years of age or older, and; housing that is primarily intended and primarily operated for occupancy by at least one person who is 55 years of age or older per dwelling unit.

Second, under the bill, leasing certain tax exempt property as residential housing does not cause the property to become subject to property taxes, if the property owner uses all of the lease income to further the benevolent or educational activities of the property owner or, for property owned by a church or religious association, to further the activities of the church or religious association. Under the

substitute amendment, tax exempt property that is owned by a church or religious association and leased as residential housing does not become taxable property if the church or religious association uses all of the lease income to further the activities of the church or religious association in the county where the property is located or in a county that is contiguous to the county where the property is located.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 70.11 (intro.) of the statutes is amended to read:

2           **70.11 Property exempted from taxation.** (intro.) The property described  
3 in this section is exempted from general property taxes if the property is exempt  
4 under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and  
5 its use, occupancy or ownership did not change in a way that makes it taxable; if the  
6 property was taxable for the previous year, the use, occupancy or ownership of the  
7 property changed in a way that makes it exempt and its owner, on or before March 1,  
8 files with the assessor of the taxation district where the property is located a form  
9 that the department of revenue prescribes or if the property did not exist in the  
10 previous year and its owner, on or before March 1, files with the assessor of the  
11 taxation district where the property is located a form that the department of revenue  
12 prescribes. Leasing a part of the property described in this section does not render  
13 it taxable if, except for property described in sub. (4), the lessor uses all of the  
14 leasehold income for maintenance of the leased property or construction debt  
15 retirement of the leased property, or both, and, except for residential housing, if the  
16 lessee would be exempt from taxation under this chapter if it owned the property.  
17 Leasing property described in sub. (4) as residential housing does not render it  
18 taxable if the property owner uses all of the leasehold income to further the  
19 benevolent or educational activities of the owner, or, in the case of a church or

religious association, to further the activities of the church or association, provided the activities are conducted in the same county in which the property from which the lease income is derived is located, or a contiguous county. Any lessor who claims that leased property is exempt from taxation under this chapter shall, upon request by the tax assessor, provide records relating to the lessor's use of the income from the leased property. Property exempted from general property taxes is:

SECTION 2. 70.11 (4) of the statutes is renumbered 70.11 (4) (intro.) and amended to read:

70.11 (4) (intro.) Property owned and used exclusively by educational any of the entities described in this subsection while such property is used not for profit. Property that is exempt from taxation under this subsection and is leased remains exempt from taxation only if, in addition to the requirements specified in the introductory phrase of this section, the property owner and the lessee do not discriminate on the basis of race. The amount of land exempt under this subsection may not exceed 10 acres of land necessary for location and convenience of buildings, except as provided in par. (b). This subsection does not include property owned by an organization that is organized under s. 185.981 or ch. 611, 613, or 614 and that offers a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3) or by an organization that is issued a certificate of authority under ch. 618 and that offers a health maintenance organization or a limited service health organization or by any nonstock, nonprofit corporation which services guaranteed student loans for others or on its own account.

The property of the following entities is exempt from taxation under this subsection:

(a) Educational institutions offering regular courses 6 months in the year; or by churches and educational associations.

*For purposes of this subsection, "benevolent association" means an organization described in section 501(c) of the Internal Revenue Code that is exempt from taxation under section 501(a) of the Internal Revenue Code.*



1        (b) Churches or religious, educational or benevolent associations, including  
2        benevolent nursing homes and retirement homes for the aged but not including an  
3        organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers  
4        a health maintenance organization as defined in s. 609.01 (2) or a limited service  
5        health organization as defined in s. 609.01 (3) or an organization that is issued a  
6        certificate of authority under ch. 618 and that offers a health maintenance  
7        organization or a limited service health organization and not including property  
8        owned by any nonstock, nonprofit corporation which services guaranteed student  
9        loans for others or on its own account, and also including property owned and used  
10       for housing for pastors and their ordained assistants, members of religious orders  
11       and communities, and ordained teachers, whether or not contiguous to and a part of  
12       other property owned and used by such associations or churches; or by women's, but  
13       not other types of residential housing except for the property described in par. (c).  
14       Property owned by churches or religious associations necessary for location and  
15       convenience of buildings, used for educational purposes and not for profit, shall not  
16       be subject to the 10-acre limitation under this subsection but shall be subject to a  
17       30-acre limitation.

18        (e) Women's clubs; or by domestic,

19        (f) Domestic incorporated historical societies; or by domestic,

20        (g) Domestic incorporated, free public library associations; or by fraternal,

21        (h) Fraternal societies operating under the lodge system (except university,  
22       college and high school fraternities and sororities), but not exceeding 10 acres of land  
23       necessary for location and convenience of buildings while such property is not used  
24       for profit. ~~Property owned by churches or religious associations necessary for~~  
25       ~~location and convenience of buildings, used for educational purposes and not for~~

1     ~~profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre~~  
2     ~~limitation. Property that is exempt from taxation under this subsection and is leased~~  
3     ~~remains exempt from taxation only if, in addition to the requirements specified in the~~  
4     ~~introductory phrase of this section, the lessee does not discriminate on the basis of~~  
5     ~~race, except university, college, and high school fraternities and sororities.~~

6             **SECTION 3.** 70.11 (4) (c) of the statutes is created to read:

7             70.11 **(4)** (c) Benevolent associations, churches, or religious associations, if the  
8     property is any of the following: *or a combination of any of the following*

- 9             1. A nursing home licensed under s. 50.03.
- 10            2. A community-based residential facility licensed under s. 50.03.
- 11            3. An adult family home certified under s. 50.032 or licensed under s. 50.033.
- 12            4. A residential care apartment complex registered or certified under s. 50.034.
- 13            5. A domestic abuse shelter.
- 14            6. A shelter for the homeless, including transitional housing facilities.
- 15            7. Housing for low-income persons that is operated in compliance with sections
- 16     3.01 and 3.02 (1), (2), and (3), or that is provided as part of a program described in
- 17     section 4.02 (4) or 4.02 (9), of the Internal Revenue Service revenue procedure 96-32.

18     In order to claim the exemption under this subdivision, the property owner shall  
19     provide the assessor an affidavit stating that the property meets the requirements  
20     under this subdivision. For the purposes of this subdivision, "project", as used in  
21     Internal Revenue Service revenue procedure 96-32, includes property located on  
22     more than one tax parcel, if the parcels are owned or operated by the same person  
23     and are adjacent, separated only by a street or other public right-of-way, or within  
24     the same condominium development.

1           8. A residential facility, the primary purpose of which is to provide alcohol or  
2 other drug abuse treatment or services or housing for persons with, or who are  
3 recovering from, alcohol or other drug abuse problems.

4           9. Residential housing that is occupied by one or more persons with permanent  
5 disabilities, for whom evidence is available that demonstrates that these persons  
6 meet the medical definition of permanent disability used to determine eligibility for  
7 programs administered by the federal social security administration.

8           10. Housing for older persons as defined in s. 106.50 (1m) (m) that satisfies the  
9 requirements under s. 106.50 (5m) (a) and that is affiliated with a community-based  
10 residential facility or nursing home licensed under s. 50.03 or a residential care  
11 apartment complex registered or certified under s. 50.034, any one of which is located  
12 within the same county. *or in contiguous counties* Housing for older persons will be considered affiliated if it  
13 meets the definition of an affiliate under s. 180.0103 (1) and the affiliated entity is  
14 not for profit.

15           **SECTION 4.** 70.11 (4) (d) of the statutes is created to read:

16           70.11 (4) (d) Benevolent associations, if the property is not residential.

17           **SECTION 5. Initial applicability.**

18           (1) The treatment of section 70.11 (intro.) of the statutes first applies to  
19 property tax assessments as of January 1, 2003.

20           (2) The renumbering and amendment of section 70.11 (4) of the statutes and  
21 the creation of section 70.11 (4) (c) and (d) of the statutes first apply to property tax  
22 assessments as of January 1, 2007.

23           **SECTION 6. Effective date.**

24           (1) The treatment of section 70.11 (intro.) of the statutes takes effect on  
25 January 1, 2003.

(2) The renumbering and amendment of section 70.11 (4) of the statutes and the creation of section 70.11 (4) (c) and (d) of the statutes take effect on January 1, 2007.

4 (END)



**LEAH VUKMIR**  
STATE REPRESENTATIVE

☐ PER YOUR REQUEST

☐ FOR YOUR INFORMATION

☒ February 6, 2006

Hey Joe, as we  
discussed the "1/2"  
sticker are attached.

Thank You very  
much - you're a  
rockstar!

Leah

STATE CAPITOL

P.O. Box 8953 • MADISON, WISCONSIN 53708-8953  
(608) 266-9180 • (888) 534-0014 • FAX: (608) 282-3614



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBs0244/2

JK:lmk/jf

SAS

RYM/R

ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2005 ASSEMBLY BILL 573

in 2-6-06  
A Today  
ReSen

1 AN ACT *to renumber and amend* 70.11 (4); *to amend* 70.11 (intro.); and *to*  
2 *create* 70.11 (4) (c) and 70.11 (4) (d) of the statutes; **relating to:** revision and  
3 elimination of the exemption from the property tax for certain property and the  
4 use of income from certain tax-exempt leased property.

---

***Analysis by the Legislative Reference Bureau***

This substitute amendment differs from the bill in two respects. First, in addition to the types of property owned by a benevolent association that are exempt from property taxes under the bill, the substitute amendment provides that housing for older persons is exempt from property taxes, if the housing is owned by a benevolent association. Under current law, generally, housing for older persons is housing provided under any state or federal program that is specifically designed and operated to assist elderly persons; housing that is solely intended for, and solely occupied by, persons who are 62 years of age or older, and; housing that is primarily intended and primarily operated for occupancy by at least one person who is 55 years of age or older per dwelling unit.

Second, under the bill, leasing certain tax exempt property as residential housing does not cause the property to become subject to property taxes, if the property owner uses all of the lease income to further the benevolent or educational activities of the property owner or, for property owned by a church or religious association, to further the activities of the church or religious association. Under the

substitute amendment, tax exempt property that is owned by a church or religious association and leased as residential housing does not become taxable property if the church or religious association uses all of the lease income to further the activities of the church or religious association in the county where the property is located or in a county that is contiguous to the county where the property is located.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1       **SECTION 1.** 70.11 (intro.) of the statutes is amended to read:

2       **70.11 Property exempted from taxation.** (intro.) The property described  
3 in this section is exempted from general property taxes if the property is exempt  
4 under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and  
5 its use, occupancy or ownership did not change in a way that makes it taxable; if the  
6 property was taxable for the previous year, the use, occupancy or ownership of the  
7 property changed in a way that makes it exempt and its owner, on or before March 1,  
8 files with the assessor of the taxation district where the property is located a form  
9 that the department of revenue prescribes or if the property did not exist in the  
10 previous year and its owner, on or before March 1, files with the assessor of the  
11 taxation district where the property is located a form that the department of revenue  
12 prescribes. Leasing a part of the property described in this section does not render  
13 it taxable if, except for property described in sub. (4), the lessor uses all of the  
14 leasehold income for maintenance of the leased property or construction debt  
15 retirement of the leased property, or both, and, except for residential housing, if the  
16 lessee would be exempt from taxation under this chapter if it owned the property.  
17 Leasing property described in sub. (4) as residential housing does not render it  
18 taxable if the property owner uses all of the leasehold income to further the  
19 benevolent or educational activities of the owner, or, in the case of a church or

1 religious association, to further the activities of the church or association, provided  
2 the activities are conducted in the same county in which the property from which the  
3 lease income is derived is located, or a contiguous county. Any lessor who claims that  
4 leased property is exempt from taxation under this chapter shall, upon request by  
5 the tax assessor, provide records relating to the lessor's use of the income from the  
6 leased property. Property exempted from general property taxes is:

7       **SECTION 2.** 70.11 (4) of the statutes is renumbered 70.11 (4) (intro.) and  
8 amended to read:

9       70.11 (4) (intro.) Property owned and used exclusively by ~~educational~~ any of the  
10 entities described in this subsection while such property is used not for profit.  
11 Property that is exempt from taxation under this subsection and is leased remains  
12 exempt from taxation only if, in addition to the requirements specified in the  
13 introductory phrase of this section, the property owner and the lessee do not  
14 discriminate on the basis of race. The amount of land exempt under this subsection  
15 may not exceed 10 acres of land necessary for location and convenience of buildings,  
16 except as provided in par. (b). This subsection does not include property owned by  
17 an organization that is organized under s. 185.981 or ch. 611, 613, or 614 and that  
18 offers a health maintenance organization as defined in s. 609.01 (2) or a limited  
19 service health organization as defined in s. 609.01 (3) or by an organization that is  
20 issued a certificate of authority under ch. 618 and that offers a health maintenance  
21 organization or a limited service health organization or by any nonstock, nonprofit  
22 corporation which services guaranteed student loans for others or on its own account.  
23 For purposes of this subsection, "benevolent association" means an organization  
24 described in section 501 (c) of the Internal Revenue Code that is exempt from



1 taxation under section 501 (a) of the Internal Revenue Code. The property of the  
2 following entities is exempt from taxation under this subsection:

3 (a) Educational institutions offering regular courses 6 months in the year; or  
4 by churches and educational associations.

5 (b) Churches or religious, educational or benevolent associations, including  
6 benevolent nursing homes and retirement homes for the aged but not including an  
7 organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers  
8 a health maintenance organization as defined in s. 609.01 (2) or a limited service  
9 health organization as defined in s. 609.01 (3) or an organization that is issued a  
10 certificate of authority under ch. 618 and that offers a health maintenance  
11 organization or a limited service health organization and not including property  
12 owned by any nonstock, nonprofit corporation which services guaranteed student  
13 loans for others or on its own account, and also including property owned and used  
14 for housing for pastors and their ordained assistants, members of religious orders  
15 and communities, and ordained teachers, whether or not contiguous to and a part of  
16 other property owned and used by such associations or churches; or by women's, but  
17 not other types of residential housing except for the property described in par. (c).  
18 Property owned by churches or religious associations necessary for location and  
19 convenience of buildings, used for educational purposes and not for profit, shall not  
20 be subject to the 10-acre limitation under this subsection but shall be subject to a  
21 30-acre limitation.

22 (e) Women's clubs; or by domestic,

23 (f) Domestic incorporated historical societies; or by domestic,

24 (g) Domestic incorporated, free public library associations; or by fraternal.

1        (h) Fraternal societies operating under the lodge system (except university,  
2        college and high school fraternities and sororities), but not exceeding 10 acres of land  
3        necessary for location and convenience of buildings while such property is not used  
4        for profit. Property owned by churches or religious associations necessary for  
5        location and convenience of buildings, used for educational purposes and not for  
6        profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre  
7        limitation. Property that is exempt from taxation under this subsection and is leased  
8        remains exempt from taxation only if, in addition to the requirements specified in the  
9        introductory phrase of this section, the lessee does not discriminate on the basis of  
10       race, except university, college, and high school fraternities and sororities.

11        **SECTION 3.** 70.11 (4) (c) of the statutes is created to read:

12        70.11 (4) (c) Benevolent associations, churches, or religious associations, if the  
13        property is any of the following or a combination of any of the following:

- 14            1. A nursing home licensed under s. 50.03.
- 15            2. A community-based residential facility licensed under s. 50.03.
- 16            3. An adult family home certified under s. 50.032 or licensed under s. 50.033.
- 17            4. A residential care apartment complex registered or certified under s. 50.034.
- 18            5. A domestic abuse shelter.
- 19            6. A shelter for the homeless, including transitional housing facilities.
- 20            7. Housing for low-income persons that is operated in compliance with sections  
21        3.01 and 3.02 (1), (2), and (3), or that is provided as part of a program described in  
22        section 4.02 (4) or 4.02 (9), of the Internal Revenue Service revenue procedure 96-32.  
23        In order to claim the exemption under this subdivision, the property owner shall  
24        provide the assessor an affidavit stating that the property meets the requirements  
25        under this subdivision. For the purposes of this subdivision, "project", as used in

1 Internal Revenue Service revenue procedure 96–32, includes property located on  
2 more than one tax parcel, if the parcels are owned or operated by the same person  
3 and are adjacent, separated only by a street or other public right-of-way, or within  
4 the same condominium development.

5 8. A residential facility, the primary purpose of which is to provide alcohol or  
6 other drug abuse treatment or services or housing for persons with, or who are  
7 recovering from, alcohol or other drug abuse problems.

8 9. Residential housing that is occupied by one or more persons with permanent  
9 disabilities, for whom evidence is available that demonstrates that these persons  
10 meet the medical definition of permanent disability used to determine eligibility for  
11 programs administered by the federal social security administration.

12 10. Housing for older persons as defined in s. 106.50 (1m) (m) that satisfies the  
13 requirements under s. 106.50 (5m) (a) and that is affiliated with a community-based  
14 residential facility or nursing home licensed under s. 50.03 or a residential care  
15 apartment complex registered or certified under s. 50.034, any one of which is located  
16 within the same county or in contiguous counties. Housing for older persons will be  
17 considered affiliated if it meets the definition of an affiliate under s. 180.0103 (1) and  
18 the affiliated entity is not for profit.

19 **SECTION 4.** 70.11 (4) (d) of the statutes is created to read:

20 70.11 (4) (d) Benevolent associations, if the property is not residential.

21 **SECTION 5. Initial applicability.**

22 (1) The treatment of section 70.11 (intro.) of the statutes first applies to  
23 property tax assessments as of January 1, 2003.

(2) The renumbering and amendment of section 70.11 (4) of the statutes and the creation of section 70.11 (4) (c) and (d) of the statutes first apply to property tax assessments as of January 1, 2007.

**SECTION 6. Effective date.**

(1) The treatment of section 70.11 (intro.) of the statutes takes effect on January 1, 2003.

~~(2) The renumbering and amendment of section 70.11 (4) of the statutes and the creation of section 70.11 (4) (c) and (d) of the statutes take effect on January 1, 2007.~~

(END)

2005 BILL

↓ KEEP

- 1 AN ACT *to renumber and amend* 70.11 (4); *to amend* 70.11 (intro.); and *to*
- 2 *create* 70.11 (4) (c), 70.11 (4) (d) and 70.11 (4) (i) of the statutes; **relating to:**
- 3 the property tax exemption exemption for property owned by certain
- 4 benevolent or educational associations and the use of income from certain
- 5 tax-exempt leased property.

***Analysis by the Legislative Reference Bureau***

Under current law, property owned and used exclusively by benevolent associations, including benevolent nursing homes and retirement homes for the aged, is exempt from the property tax, if the property is not used for profit. This ~~bill~~ modifies the property tax exemption under current law for property owned by benevolent associations, including benevolent nursing homes and retirement homes for the aged by setting forth the specific types of property owned by a benevolent association that are exempt from property taxes.

Under the ~~bill~~, the types of property owned by a benevolent association that are exempt from the property tax are:

1. Nursing homes licensed under s. 50.03.
2. Community based residential facilities licensed under s. 50.03.
3. Adult family homes certified under s. 50.032 or licensed under s. 50.033.
4. Residential care apartment complexes registered or certified under s. 50.034.
5. Domestic abuse shelters.
6. Shelters for the homeless, including transitional housing facilities.

use 2x6  
substitute amendment

**BILL**

7. Housing for low-income persons that is operated in compliance with income eligibility limits for federal low-income housing programs.

8. A residential facility that provides alcohol or other drug abuse (AODA) treatment services or housing for persons with or recovering from AODA problems.

9. Residential housing for persons with permanent disabilities.

10. Housing for older persons, if the housing is affiliated with a community-based residential facility, nursing home, or residential care apartment complex.

11. Property that is not residential housing.

Under the ~~bill~~, property owned by a benevolent association that is residential housing is subject to the property tax if it does not fit within any of the categories described above.

Under current law, nonresidential property owned and used exclusively by a benevolent association is exempt from the property tax. Under the ~~bill~~, nonresidential property owned by a church or religious association is exempt from the property tax.

Under current law, if property that is exempt from property taxes is leased, the property retains its tax exemption only if the owner uses all of the leasehold income for maintenance of the leased property or construction debt retirement of the leased property or both.

The ~~bill~~ provides that leasing property owned by benevolent associations and certain education associations as residential housing does not render the property taxable if the property owner uses all of the lease income to support its benevolent or educational activities, or in the case of a church or religious association, to support the activities of the church or association. In addition, the ~~bill~~ provides that a property owner may not discriminate based on race.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 70.11 (intro.) of the statutes is amended to read:

**70.11 Property exempted from taxation.** (intro.) The property described in this section is exempted from general property taxes if the property is exempt under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and its use, occupancy or ownership did not change in a way that makes it taxable; if the property was taxable for the previous year, the use, occupancy or ownership of the

use 4x4  
substitute  
amendment

**BILL**

1 property changed in a way that makes it exempt and its owner, on or before March 1,  
2 files with the assessor of the taxation district where the property is located a form  
3 that the department of revenue prescribes or if the property did not exist in the  
4 previous year and its owner, on or before March 1, files with the assessor of the  
5 taxation district where the property is located a form that the department of revenue  
6 prescribes. Leasing a part of the property described in this section does not render  
7 it taxable if, except for property described in sub. (4), the lessor uses all of the  
8 leasehold income for maintenance of the leased property or construction debt  
9 retirement of the leased property, or both, and, except for residential housing, if the  
10 lessee would be exempt from taxation under this chapter if it owned the property.  
11 Leasing property described in sub. (4) as residential housing does not render it  
12 taxable if the property owner uses all of the leasehold income to support the  
13 benevolent or educational activities of the owner, or, in the case of a church or  
14 religious association, to support the activities of the church or association, and the  
15 activities are undertaken in the county where the tax-exempt property is located or  
16 in a contiguous county. In addition, leasing property described in sub. (4) (c) 7. or (i)  
17 as residential housing does not render it taxable if the property owner uses all of the  
18 leasehold income to support the provision of similar housing anywhere in this state.  
19 Any lessor who claims that leased property is exempt from taxation under this  
20 chapter shall, upon request by the tax assessor, provide records relating to the  
21 lessor's use of the income from the leased property. Property exempted from general  
22 property taxes is:

23 **SECTION 2.** 70.11 (4) of the statutes is renumbered 70.11 (4) (intro.) and  
24 amended to read:

**BILL****SECTION 2**

1           70.11 (4) (intro.) Property owned and used exclusively by educational any of the  
2           entities described in this subsection while such property is used not for profit.  
3           Property that is exempt from taxation under this subsection and is leased remains  
4           exempt from taxation only if, in addition to the requirements specified in the  
5           introductory phrase of this section, the property owner and the lessee do not  
6           discriminate on the basis of race. The amount of land exempt under this subsection  
7           may not exceed 10 acres of land necessary for location and convenience of buildings,  
8           except as provided in par. (b). This subsection does not include property owned by  
9           an organization that is organized under s. 185.981 or ch. 611, 613, or 614 and that  
10           offers a health maintenance organization as defined in s. 609.01 (2) or a limited  
11           service health organization as defined in s. 609.01 (3) or by an organization that is  
12           issued a certificate of authority under ch. 618 and that offers a health maintenance  
13           organization or a limited service health organization or by any nonstock, nonprofit  
14           corporation which services guaranteed student loans for others or on its own account.  
15           For purposes of this subsection, "benevolent association" means an organization that  
16           is described in section 501 (c) of the Internal Revenue Code and that is exempt from  
17           taxation under section 501 (a) of the Internal Revenue Code. The property of the  
18           following entities is exempt from taxation under this subsection:

19           (a) Educational institutions offering regular courses 6 months in the year; ~~or~~  
20           ~~by churches and educational associations.~~

21           (b) Churches or religious, ~~educational or benevolent~~ associations, including  
22           ~~benevolent nursing homes and retirement homes for the aged but not including an~~  
23           ~~organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers~~  
24           ~~a health maintenance organization as defined in s. 609.01 (2) or a limited service~~  
25           ~~health organization as defined in s. 609.01 (3) or an organization that is issued a~~



**BILL**

1 ~~certificate of authority under ch. 618 and that offers a health maintenance~~  
2 ~~organization or a limited service health organization and not including property~~  
3 ~~owned by any nonstock, nonprofit corporation which services guaranteed student~~  
4 ~~loans for others or on its own account, and also including property owned and used~~  
5 ~~for housing for pastors and their ordained assistants, members of religious orders~~  
6 ~~and communities, and ordained teachers, whether or not contiguous to and a part of~~  
7 ~~other property owned and used by such associations or churches; or by women's, but~~  
8 not other types of residential housing except for the property described in par. (c).  
9 Property owned by churches or religious associations necessary for location and  
10 convenience of buildings, used for educational purposes and not for profit, shall not  
11 be subject to the 10-acre limitation under this subsection but shall be subject to a  
12 30-acre limitation.

13 (e) Women's clubs; or by domestic,

14 (f) Domestic incorporated historical societies; or by domestic,

15 (g) Domestic incorporated, free public library associations; or by fraternal.

16 (h) Fraternal societies operating under the lodge system (except university,  
17 college and high school fraternities and sororities), but not exceeding 10 acres of land  
18 necessary for location and convenience of buildings while such property is not used  
19 for profit. Property owned by churches or religious associations necessary for  
20 location and convenience of buildings, used for educational purposes and not for  
21 profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre  
22 limitation. Property that is exempt from taxation under this subsection and is leased  
23 remains exempt from taxation only if, in addition to the requirements specified in the  
24 introductory phrase of this section, the lessee does not discriminate on the basis of  
25 race, except university, college, and high school fraternities and sororities.

**BILL****SECTION 3**

1       **SECTION 3.** 70.11 (4) (c) of the statutes is created to read:

2       70.11 (4) (c) Benevolent associations, churches, or religious associations, if the  
3       property is used for any or any combination of the following purposes:

4             1. A nursing home licensed under s. 50.03.

5             2. A community-based residential facility licensed under s. 50.03.

6             3. An adult family home certified under s. 50.032 or licensed under s. 50.033.

7             4. A residential care apartment complex registered or certified under s. 50.034.

8             5. A domestic abuse shelter.

9             6. A shelter for the homeless, including transitional housing facilities.

10            7. Housing for low-income persons that is operated in compliance with sections  
11       3.01 and 3.02 (1), (2), and (3), or that is provided as part of a program described in  
12       section 4.02 (4) or 4.02 (9), of the Internal Revenue Service revenue procedure 96-32.

13       In order to claim the exemption under this subdivision, the property owner shall  
14       provide the assessor an affidavit stating that the property meets the requirements  
15       under this subdivision. For the purposes of this subdivision, “project”, as used in  
16       Internal Revenue Service revenue procedure 96-32, includes property located on  
17       more than one tax parcel, if the parcels are owned or operated by the same person  
18       and are adjacent, separated only by a street or other public right-of-way, or within  
19       the same condominium development.

20            8. A residential facility, the primary purpose of which is to provide alcohol or  
21       other drug abuse treatment or services or housing for persons with, or who are  
22       recovering from, alcohol or other drug abuse problems.

23            9. Residential housing that is occupied by one or more persons with permanent  
24       disabilities, for whom evidence is available that demonstrates that these persons

**BILL**

1 meet the medical definition of permanent disability used to determine eligibility for  
2 programs administered by the federal social security administration.

3 10. Housing for older persons that is affiliated with a community-based  
4 residential facility or nursing home licensed under s. 50.03 or a residential care  
5 apartment complex registered or certified under s. 50.034, any one of which is located  
6 within the same county or a contiguous county. Housing for older persons will be  
7 considered affiliated if it meets the definition of an affiliate under s. 180.0103 (1) and  
8 the affiliated entity is not for profit. For purposes of this subdivision, “housing for  
9 older persons” means housing that is solely intended for and primarily occupied by  
10 persons who are 62 years of age or older.

11 **SECTION 4.** 70.11 (4) (d) of the statutes is created to read:

12 70.11 (4) (d) Benevolent associations, if the property is not residential.

13 **SECTION 5.** 70.11 (4) (i) of the statutes is created to read:

14 70.11 (4) (i) All property owned by an eligible sponsor, as defined in s. 234.01  
15 (5), that is used exclusively to provide housing for persons and families of low and  
16 moderate income.

17 **SECTION 6. Initial applicability.**

18 (1) This act first applies retroactively to the property tax assessments as of  
19 January 1, 2004.

20 **SECTION 7. Effective date.**

21 (1) This act takes effect retroactively on January 1, 2004.

22 (END)